

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:        Gerald G. & Sandra G. Smith                                )  
                 Map 57G, Group C, Parcel 6                                ) Hamilton County  
                 Residential Property                                        )  
                 Tax Year 2005     )

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$20,000	\$118,200	\$138,200	\$34,550

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on December 20, 2005 in Chattanooga, Tennessee. In attendance at the hearing were Mr. and Mrs. Smith, the appellants, and Hamilton County Property Assessor's representative Mark Hinson.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a single family residence located at 10203 Jirah Court in Soddy Daisy, Tennessee.

The taxpayers contended that subject property should be valued at \$132,000. In support of this position, the taxpayers argued that they purchased subject property on June 25, 2004 for \$135,000. According to the taxpayers, the sale price included various items of personal property which they valued at \$2,500-\$3,000. Mrs. Smith testified that they could have purchased subject property for \$130,000 without those inclusions and the seller would have paid the closing costs.

The taxpayers also contended that subject property experiences a loss in value for three separate reasons. First, the only exit from subject property is across a frequently blocked railroad less than 500 feet away. Second, a "run-down" mobile home park is located approximately 850 feet behind subject property. Third, three of six homes listed for sale on the taxpayer's street were taken off the market after being listed for a year or more.

The taxpayers next argument was that the current appraisal of subject property does not achieve equalization. In support of this contention, the taxpayers noted that the assessor has appraised an essentially identical home with a pool across the street for \$137,000.

The taxpayers final argument concerned the amount of living area in their home. The taxpayers asserted that the assessor's assumption of 1,393 square feet of living area is excessive. The taxpayers introduced documents prepared by a pest control company and insurance agent indicating subject property contains 1,230 square feet and 1,344 square feet of living area respectively.



The assessor contended that subject property should be valued at \$138,200. In support of this position, five comparable sales were introduced into evidence. Mr. Hinson maintained that the comparable sales support a value indication of \$139,300 after adjustments. Accordingly, Mr. Hinson recommended that the current appraisal of \$138,200 remain in effect.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$135,000.

Since the taxpayer is appealing from the determination of the Hamilton County Board of Equalization, the burden of proof in this matter falls on the taxpayer. *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The first issue before the administrative judge concerns the square feet of living area. The administrative judge finds that the taxpayers have the burden to establish that the current 1,393 square feet listed on the property record card is incorrect. Respectfully, the administrative judge finds that the taxpayers introduced insufficient evidence to reliably establish a lower figure.

The administrative judge finds that for Tennessee property tax purposes homes are appraised utilizing rounded outside dimensions. The administrative judge finds that the pest control estimate reflects inside dimensions and therefore lacks probative value. The administrative judge finds the insurance agent's assumption of 1,344 square feet differs from the assessor's estimate by only 49 square feet. The administrative judge finds that since the agent was not present to testify the administrative judge has no basis to conclude that his/her estimate is more accurate.

The administrative judge finds that the taxpayer's purchase of subject property should receive significant weight, but one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990);

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.



The administrative judge finds that the taxpayers' contended value of \$132,000 appears somewhat low for two reasons. First, the assessor's comparable sales support a higher estimate of market value. In particular, sale #1 is virtually identical to the subject and sold for \$141,768 on January 21, 2005. Second, Mrs. Smith testified that she had originally intended to offer the seller \$135,500 for subject home alone. Prior to making the offer, however, the seller indicated she would accept \$135,000 for both the real and personal property. Thus, the administrative judge finds that the taxpayers themselves seemingly felt subject property had a market value in excess of their contended value of \$132,000.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982), holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the 'Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and equalized by application of the appropriate appraisal ratio . . ." *Id.* at 1.

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

In contending the entire property should be appraised at no more than \$60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more underappraised than average does not entitle him to similar treatment. Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not adequately indicated how the properties compare to his own in all relevant respects. . . .

Final Decision and Order at 2. See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were underappraised . . ." Final Decision and Order at 3.



ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$20,000	\$115,000	\$135,000	\$33,750

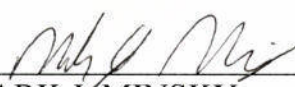
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 12th day of January, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Gerald G. Smith  
Bill Bennett, Assessor of Property